

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

PEOPLE FOR THE ETHICAL TREATMENT
OF ANIMALS, INC.,

Plaintiff,

v.

MICHAEL K. YOUNG, in his official capacity
as President of Texas A&M University,

Defendant.

Civil Action No. 4:18-cv-01547

FIRST AMENDED COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

Plaintiff, by its counsel, makes its complaint against defendant as follows:

1. Defendant Michael K. Young, the President of Texas A&M University (“TAMU”), has violated the First Amendment rights of Plaintiff People for the Ethical Treatment of Animals, Inc. (“PETA”), by deleting comments PETA posted to the TAMU Facebook page, and blocking PETA from posting additional comments. TAMU’s deletions specifically target comments that criticize TAMU for the practices of its dog laboratory, which PETA believes are cruel and inhumane. Specifically, TAMU censored PETA’s comments by automatically blocking certain words, including “PETA,” “cruelty,” and “lab,” from TAMU’s Facebook page. Blocking these words serves to bar posts that are essential to PETA’s message, and that TAMU knows are part of PETA’s public awareness campaign. TAMU’s actions are viewpoint-based and unreasonable, which the First Amendments prohibits in both public and non-public forums,

including the comment section of TAMU's Facebook page. Also, TAMU's actions are content-based and not narrowly tailored, which the First Amendment prohibits in designated public forums, including, again, the comment section of TAMU's Facebook page. PETA seeks declaratory and injunctive relief.

Jurisdiction and Venue

2. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1331 and 28 U.S.C. § 1343.

3. Venue is proper in this Court under 28 U.S.C. § 1391(b)(2). A substantial part of the events giving rise to this claim occurred in this District.

Parties

4. Plaintiff People for the Ethical Treatment of Animals, Inc. ("PETA") is a section 501(c)(3) animal-protection advocacy organization and charity located in Norfolk, Virginia. Founded in 1980, PETA is dedicated to protecting animals from abuse, neglect, and cruelty. It undertakes these efforts through public education, cruelty investigations, research, animal rescue, legislation, special events, celebrity involvement, protest campaigns, administrative petitions, and lawsuits to enforce laws enacted to protect animals.

5. Defendant Michael K. Young is the President of Texas A&M University ("TAMU"). Young has authority over all TAMU policies and practices, including those challenged here. Plaintiffs sue him in his official capacity. TAMU is a public research university located in College Station, Texas, and the second largest public university, by student enrollment, in the United States. TAMU is the only school to be designated a land, sea, and space grant University – reflecting an extensive record of scientific research funded through U.S. government grants and organizations.

Factual Allegations

Government's Pervasive Use of Social Media

6. Billions of people use social media platforms to communicate with each other, engage with news content, and share information. The Pew Research Center found that seven in ten Americans use social media in this way.¹ Facebook is by far the most popular platform, with 68% of U.S. adults using it.²

7. Governments all over the country – indeed, all over the world – use various social media platforms to disseminate important information to the public, to foster public discussion, and to allow debate related to the policies of the day with each other and with their constituents, all in a rapid and freely accessible manner. In 2016, a United Nations study on the use of social media for the delivery of government services and for public participation reported that 152 member states out of 193 (roughly 80%) include links to social media and other networking features on their national websites.³ Also, 20% of the member states reported that engagement through social media led to new policy decisions and services.⁴ Member countries viewed social media as a low-cost, ready-made solution for posting basic public-sector information and for citizen collaboration.⁵ Facebook actively encourages this form of civic engagement through its “Town Hall” feature, which facilitates connections between individual Facebook users and the

¹ Pew Research Center, *Social Media Fact Sheet* (survey conducted Jan. 3-10, 2018), <http://www.pewinternet.org/fact-sheet/social-media/>.

² *Id.*

³ U.N. Dep't of Econ. And Soc. Affairs, *United Nations E-Government Survey 2016: E-Government in Support of Sustainable Development*, at 65, U.N. Sales No. E.16.II.H.2 (2016), <http://workspace.upan.org/sites/Internet/Documents/UNPAN97453.pdf>.

⁴ *Id.* at 68.

⁵ *Id.* at 3.

Facebook pages of their elected government officials.⁶

8. In the last decade, the political and public use of social media in the United States has increasingly factored into elections, the legislative process, and government services. Federal agencies and sub-agencies have registered more than 10,000 social media profiles with the United States Digital Service,⁷ and many more active government profiles remain unregistered. Federal agencies frequently use social media to promote U.S. policy interests.⁸

9. Members of Congress actively use social media to connect with their constituents. All 100 Senators and the overwhelming majority of Representatives use social media.⁹ In a survey of members of Congress and their staff, the Congressional Management Foundation found that 76% of respondents felt that social media enabled more meaningful interactions with constituents; 70% found that social media made them more accountable to their constituents; and 71% said that constituent comments directed to the representative on social media would influence an undecided lawmaker.¹⁰

⁶ Sarah Perez, *Facebook officially launches “Town Hall” for contacting government reps, adds local election reminders*, TechCrunch, (Mar. 27, 2017), <https://techcrunch.com/2017/03/27/facebook-officially-launches-town-hall-for-contacting-government-reps-adds-local-election-reminders/>.

⁷ For a searchable database of registered federal government profiles, see <https://usdigitalregistry.digitalgov.gov/>.

⁸ For example, the Obama Administration’s Department of Health and Human Services used its social media feeds to advocate for passage of the Affordable Care Act, and then to help persuade at least 4 million people to sign up with HealthCare.gov in the first year. Joanne Kenen, *The selling of Obamacare 2.0*, Politico (Nov. 13, 2014), <http://www.politico.com/story/2014/11/obamacare-enrollment-2015-112846>.

⁹ Congressional Research Service, *Social Media in Congress: The Impact of Electronic Media on Member Communications*, R44509 (May 26, 2016), <https://fas.org/sgp/crs/misc/R44509.pdf>.

¹⁰ Congressional Management Foundation, *#SocialCongress2015* (2015), http://www.congressfoundation.org/storage/documents/CMF_Pubs/cmf-social-congress-2015.pdf.

10. State legislators also use social media to communicate with their constituents and debate controversial issues. For example, New York legislators and the Governor's office debated funding and employee salaries on Twitter.¹¹ In Maryland, legislators used social media to debate the benefits of state legislation versus county regulations.¹² And in Georgia, Representatives engaged in heated debate over the removal of confederate monuments.¹³ Further, local police departments, councilpersons, and mayors use their Facebook, Twitter, and other social media feeds as real-time channels for important community information. Cleveland Mayor Frank Jackson conducts "Twitter town halls," where residents tweet questions and the mayor responds through a live video.¹⁴

11. Social media platforms used by governmental agencies and officials allow the public to communicate back to the agency and with each other. This allows individuals to directly respond to policies proposed by their elected representatives, including suggestions and criticisms, which enables greater citizen input in our representative democracy.

12. When government uses social media as discussed above, it creates public forums for private speech, in which people have First Amendment rights to speak. Government-operated

¹¹ Tom Precious, *Cuomo and lawmakers start new year on nasty note, via Twitter and speeches*, The Buffalo News (Jan. 4, 2017), <http://buffalonews.com/2017/01/04/cuomo-lawmakers-start-new-year-nasty-note-via-twitter-speeches/>.

¹² Annie Linskey, *In Annapolis, a second debate in cyberspace*, The Baltimore Sun (Mar. 17, 2012), <http://www.baltimoresun.com/news/maryland/politics/bs-md-lawmaker-twitter-20120316-story.html>.

¹³ Greg Bluestein, *Georgia lawmaker: Talk of ditching Confederate statutes could cause Democrat to 'go missing'*, The Atlanta Journal Constitution (Aug. 30, 2017), <http://politics.blog.ajc.com/2017/08/29/georgia-republican-warns-democrat-she-could-go-missing-over-criticism-of-civil-war-monuments/>.

¹⁴ Andrew J. Tobis, *Cleveland Mayor Frank Jackson fields questions – some of them not so tough – in his first Twitter town hall*, Cleveland.com (Aug. 30, 2017), http://www.cleveland.com/cityhall/index.ssf/2017/08/cleveland_mayor_frank_jackson_60.html.

social media platforms that allow the general public to comment on governmental posts, and thus communicate directly with the government and other members of the public, resemble the paradigmatic speakers' corner in a public park. *See Perry Education Assn. v. Perry Local Educators' Assn.*, 460 U.S. 37, 45 (1983) (identifying streets and parks as “quintessential public forums” for “assembly, communicating thoughts between citizens, and discussing public questions”). As the Supreme Court recognized just last year, “[w]hile in the past there may have been difficulty in identifying the most important places (in a spatial sense) for the exchange of views, today the answer is clear. It is cyberspace—the ‘vast democratic forums of the Internet’ in general, *Reno v. American Civil Liberties Union*, 521 U.S. 844, 868 (1997), and social media in particular.” *Packingham v. North Carolina*, 137 S. Ct. 1730, 1735 (2017).

Facebook

13. Facebook is a social media platform with over 2.2 billion users worldwide, including 184 million daily active users in the United States and Canada.

14. The platform allows users to create a “profile” under their name and photograph where they can curate their online presence by posting content on their “wall” (a virtual bulletin board), including text, photos, videos, and external links. Users are able to “friend” one another, which enables them to see and comment on each other’s posts and walls. They may do so in their “news feed,” the home-screen for all Facebook users that displays a timeline of posts and activity based on an algorithm that determines interest and relevancy for individual users.

15. Facebook also allows individuals and organizations to create their own “Pages.” Pages offer different privacy, publishing, and content moderation functionality than individual user profiles. Generally speaking, Pages are more public and less private. Using default settings, any member of the public is able to view posts on an organization’s Page as well as comment on

that Page. Users may also “follow” a Page, in order to receive notifications about activity on the Page or see Page posts in their news feed. Users can also “like” a Page, which will be viewable on their own user profile and automatically follow the organization’s Page.

16. *Page Privacy Settings.* All Pages on Facebook are public by default. To remove a Page from public view, the administrator of the Page must “unpublish” it. Organizations can put age and country restrictions on a Page to limit who can view it. Organizations can also ban individual Facebook users from posting on, commenting on, and liking their Page, but banning will not prevent users from viewing the Page.

17. *Page Posting Settings.* Organizations can post text, photo, and video content on their Page, as well as links to outside content. Individual Facebook users may “comment” under posts created by the Page administrators. Additionally, individual Facebook users can initiate their own posts to an organization’s Page. These posts are located under the “Visitor Posts” tab. Visitor posts include original content placed specifically on the Page by third parties, as well as instances where users “tag” (or link to) the organization on their own user profiles. Organizations can disable visitor post functionality or require manual administrator review and prior approval of every visitor post before it is viewable to the general public.

18. *Page Moderation Settings.* Organizations operating a Facebook Page may filter out posts and comments submitted by visitors so that they do not appear publicly on the organization’s Page. There is a generalized profanity filter that organizations can elect to turn on. Page administrators can also establish a customized filter consisting of “blocked” words. If a blocked word appears in a visitor’s post or comment, that content will be automatically and immediately hidden from the Page. An organization can manually “unhide” comments subject to the filter. Organizations can also manually hide or delete individual comments. Facebook’s help

center teaches Page administrators how to use the blocked words tool and other filters (below).

Banning and Moderation

Settings for Visitor Posts and Comments

How can I proactively moderate content published by visitors on my Page? ^

If you're an [admin](#) of a Page, you can block certain words from appearing on your Page and turn on the profanity filter.

Blocking Words

When people include a word you've blocked in a post or comment on your Page, it won't appear on your Page. To block words:

- 1 Click **Settings** at the top of your Page.
- 2 From **General**, click **Page Moderation**.
- 3 Type the words you want to block, separated by commas. You'll need to add both the singular and plural forms of the word you want to block.
- 4 Click **Save Changes**.

You can unhide comments that contain blocked words by going to the comment and clicking **Unhide**.

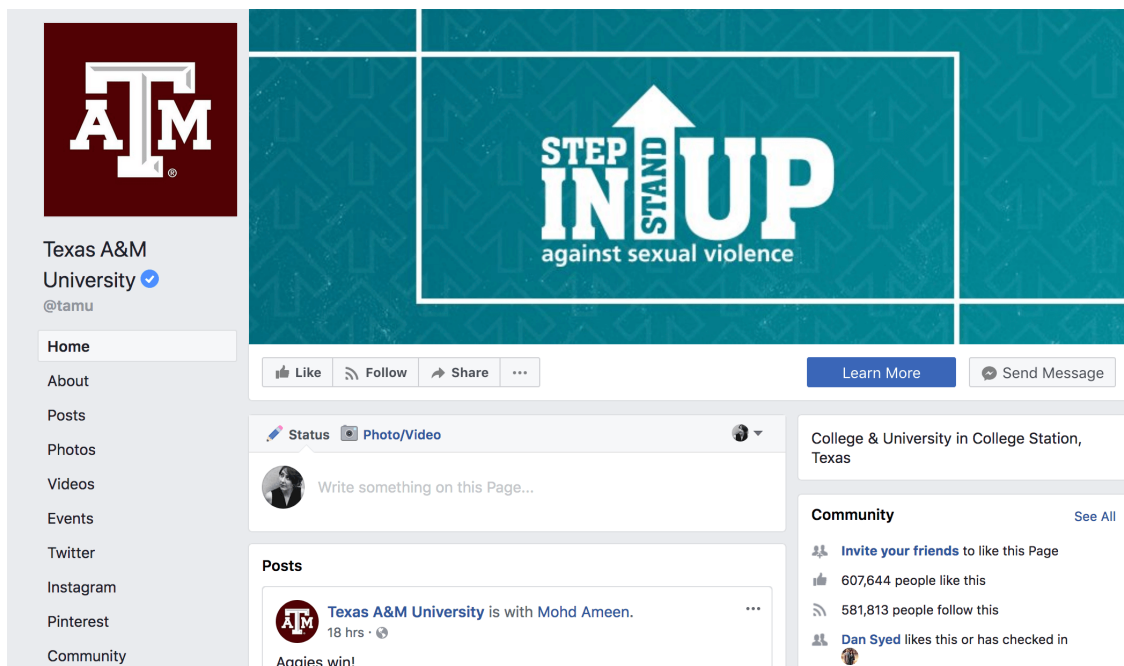
TAMU's Facebook Page

19. TAMU maintains a Facebook Page: <https://www.facebook.com/tamu/>. TAMU's Facebook Page has over 583,000 followers and has received over 608,000 "likes" from Facebook users. TAMU regularly posts information about educational opportunities, research advances, and University athletics. It also posts profiles about students and other members of the TAMU community.


20. *Posting*. On TAMU's Facebook Page, both the University and guests to the Page can post text and other media on TAMU's wall. On the left of the Page is a list of content such as Home, Posts, and Photos. The "Home" section lists only TAMU-generated media, but guests can comment on each post. TAMU posts on a wide variety of University topics, including wins by the baseball team, scientific advances discovered in the school's research facilities, and

photographs taken by students studying abroad. The “Posts” section includes visitor posts, which other members of the community can see and comment on. Visitor posts not only discuss campus related news, but include posts from the broader community, including posts by local businesses working with the University, photographs taken by prospective students on college tours, charity events hosted by student organizations, and meetings with student activists (such as the post by U.S. Congressman and Senate candidate Beto O’Rourke shown below).

21. This is the TAMU Home page:



22. This is the TAMU Posts page:



Texas A&M University

@tamu

Home

About

Posts

Photos

Videos

Events

Twitter


Instagram

Pinterest

Community

Like Follow Share ...


Write something on this Page...

Texas A&M University is with Mohd Ameen.




18 hrs · 🌐

Aggies win!

Texas A&M Baseball takes down the Longhorns tonight in Aggieland! Whoop!



Like Comment Share

   3.5K


Top Comments ▾

Learn More

Send Message


Search for posts on this Page

Visitor Posts

Diego Araujo Rolim de Oliveira
Today at 8:53am 🌐


Gostaria muito de estudar numa universidade assim.


Like · Comment

Bree Wright
April 9 at 6:47am 🌐

Whoever came up with the idea of "Donations for Citations," it is a brilliant idea!!

Like · Comment

Lauren Diehl
April 7 at 1:12pm 🌐

 Texas A&M University #Texas #Bluebonnets #AggieRing #Classof2009 #Whoop

3 Likes
Like · Comment


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23. This is a visitor post:






24. *Commenting.* Guests have the ability to comment on all posts – whether generated by TAMU or a visitor. Some posts receive hundreds of comments. A Facebook algorithm displays “top” comments based on relevance and popularity, but users may choose to view them all. Users frequently engage with visitor posts by “reacting” to them (for example, by “liking” them), commenting on them, or sharing them to their own Facebook profile. The type and tone of comments varies widely. Many comments include substantive discussions about TAMU administration decisions and controversies. For example, visitor comments discuss how TAMU

obtained its mascot Reveille (a border collie who lives on campus) from a breeder rather than a shelter, and how TAMU created a separate residential program for students on the autism spectrum.




Travis Inman She's beautiful, but, Reveille the first wasn't a collie. I, for one, would like to diversify... A rescue dog would send a powerful msg of compassion!





 14

Like · Reply · 30w · Edited

Top Comments is selected, so some replies may have been filtered out.



Melissa Hussey I agree Travis. During the selection process in 2015 we actually considered 3 purebred Rescue Collies. Unfortunately none of the three made the final cut. Reasons for not recruiting one of the rescue Collies included their age and temperament. You see... [See More](#)

 2

Like · Reply · 29w



25. *Texas A&M Social Media Policy.* TAMU has posted a social media policy on the University website.¹⁵ It states that TAMU may remove visitor generated content that:

- violates the terms of service
- contains personal identifying information or sensitive personal information, as defined in Tex. Code Bus & Com. §521.001 et. seq.
- contains offensive terms that target protected classes
- is threatening, harassing, or discriminatory
- incites or promotes violence or illegal activities
- contains information that reasonably could compromise public safety
- advertises or promotes a non-affiliated commercial product or service
- promotes or endorses political campaigns or candidates

¹⁵ Exhibit A, TAMU's Social Media Policy, <https://www.tamus.edu/marcomm/socialmedia/public/>.

- violates a trademark, copyright, or other law.¹⁶

26. TAMU acknowledges that comments posted to its Facebook Page are communications to the University, and thus the state government. According to its social media policy, documents related to the TAMU Facebook Page are subject to Texas's Public Information Act, Tex. Code, Chapter 552.

Social media sites may contain communications sent to or received by state employees, and such communications are therefore public records subject to State Records Retention requirements. These retention requirements apply regardless of the form of the record (digital text, photos, audio, or video, for example).¹⁷

Discussions of TAMU Research On Its Facebook Page

27. Many of the TAMU-generated and visitor-generated posts on the TAMU Facebook Page include information about and discussions of TAMU's scientific research – a central element of TAMU's identity. One recent post opens up the discussion of animal testing in the pursuit of curing human disease: "Texas A&M scientists & MD Anderson Cancer Center doctors have a surprising partner in their fight against brain cancer - Sadie, a 9-year-old French Bulldog!" More than 100 Facebook users shared this post, and 26 individuals posted comments directly on the TAMU Page. The comments range from expressing support of the research to one person questioning what happens during experimentation. There are no comments in direct opposition to the research or calling for an end to the testing, perhaps happenstance but possibly because TAMU purposefully removed such comments.

¹⁶ *Id.*

¹⁷ *Id.*



Texas A&M University

July 19, 2017 · 🌐



Texas A&M scientists & [MD Anderson Cancer Center](#) doctors have a surprising partner in their fight against brain cancer - Sadie, a 9-year-old French Bulldog!

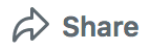
Sadie was recently diagnosed with the same type of brain tumor that humans can get. She's helping scientists better understand how to beat cancer in man and man's best friend: <http://tx.ag/mdsadie>



A Dogged Pursuit of Aggressive Brain Cancer

[Dogs](#) are helping researchers better understand the biology of brain tumors in hopes of developing better treatments for high-grade gliomas

MDANDERSON.ORG



👍❤️😞 671

[Top Comments](#) ▼

107 Shares



Advocacy Allowed by TAMU on its Facebook Page

28. Clicking on TAMU’s “Visitor Posts” tab shows that TAMU allows the general public, including current students, prospective students, alumni, local businesses, and non-affiliated persons still interested in the University, to post on a wide variety of topics. This further shows that TAMU has allowed its Facebook Page to exist generally as a forum for the open expression of ideas without regard to political affiliation, issue area, or whether the topic contradicts TAMU policies.

29. For example, TAMU’s Facebook Page includes posts about environmental and animal-welfare advocacy efforts. One recent community member post shares information about an environmental movie screening. The movie advocates for people to stop using plastic straws in order to limit their environmental impact and harm to sea turtles. The post includes TAMU’s mascot, Reveille, to show TAMU cares about animals.



Chris Figgner

9 hrs · Bryan, TX ·

Ms Reveille decided to be the next #Aggie to #StopSucking and only use #PaperStraws. She is excited about the #STRAWSFilm public screening at Texas A&M University in Rudder Theater (Rudder Tower) on April 20th, @ 4pm. Her cut-out version will be attending as well. #AggiesStopSucking #SkipTheStraw #StrawlessOcean

<https://www.facebook.com/events/353895358429638/>

Texas Sea Grant Ryan Trahan Megan Eddings Neptune Bottle Accel Lifestyle Sea Turtles vs Straws Sea Turtle, Inc Straws The Last Plastic Straw Lonely Whale Surfrider Foundation-TX Coastal Bend Surfrider Foundation South Texas Chapter Surfrider Foundation Central Texas Chapter Surfrider Foundation Texas Upper Coast Chapter Aardvark Paper Drinking Straws Global Wildlife Conservation Texas A&M Oceanography Texas A&M Geosciences Texas A&M Science



30. Other visitor posts on the TAMU Facebook Page show community members responding directly to TAMU actions, opening a dialogue about positions taken by the University and the various programs that the school funds. One recent post is from U.S. Senator Ted Cruz, tagging and applauding TAMU for ending an academic program with China. The post is clearly political: published during an election year by a U.S. Senator about U.S. foreign policy. It also describes a successful lobbying effort to end an academic institute and cultural exchange program.



31. In light of all of the foregoing, TAMU's Facebook Page is a designated public forum for all speech by all speakers, or at least designated for speech about the University or topics relevant to the University, which PETA's speech clearly falls within. At an absolute minimum, it is a non-public forum where private speech is nonetheless encouraged and permitted.

PETA's Advocacy Against TAMU's Canine Research Lab

32. At a federally-supported TAMU laboratory, dogs, including golden retrievers, are intentionally bred to have a canine version of muscular dystrophy. PETA received information from a whistleblower indicating that the dogs used in this TAMU laboratory are mistreated

during experiments and routine caretaking.¹⁸

33. In 2016, PETA began an advocacy campaign against TAMU's dog lab. This campaign has included letters to governmental officials and funding agencies, protests outside Board of Regents' meetings, and a video by political commentator Bill Maher.¹⁹

34. Social media is a critical tool in PETA's advocacy campaigns. PETA helps students craft petitions to end TAMU's animal cruelty on Change.org, livestreams protests over Twitter, and alerts its Facebook followers of corporations that sponsor TAMU's dog lab.

TAMU's Blocking of PETA's Comments to the TAMU Facebook Page

35. In December 2017, PETA noticed that content they attempted to post to the TAMU Facebook Page, as well as content "tagging" TAMU, failed to appear on TAMU's Facebook Page, as PETA's content had done in the past.

36. PETA staff used the standard visitor interface to test various posts on TAMU's Facebook Page and thus determine what content would result in the post being hidden from public view. One staffer was able to post the message: "TAMU rules! Go Aggies." However, using the same account, she was not able to post the message: "Shut the cruel Muscular Dystrophy dog lab down NOW! This is torture!" By testing individual words, she found that the word "torture" always resulted in TAMU's Facebook Page hiding her post.

37. Further tests by PETA staff, using the same method, found that posts containing any of several words closely associated with PETA's ongoing advocacy campaign against

¹⁸ Cristina Corbin, *Breeding dogs to have muscular dystrophy for medical research sparks outcry*, Fox News (Oct. 31, 2017), <http://www.foxnews.com/us/2017/10/31/breeding-dogs-to-have-muscular-dystrophy-for-medical-research-sparks-outcry.html>.

¹⁹ *Bill Maher Goes Apolitical to Save Dogs in Distress at Texas A&M University*, PETA Blog, <https://www.peta.org/features/bill-maher-takes-on-tamu/>.

TAMU's dog lab would result in the post being automatically censored. Specifically, the tests revealed that a post containing any of the following words (hereafter "blocked words") would be automatically hidden from public view on the TAMU Facebook Page:

- PETA
- Cruel
- Cruelty
- Abuse
- Torture
- MD
- Shut
- Close
- Stop
- Lab
- Testing
- Tests

38. After finding that PETA messages and campaign activities were being automatically blocked from the TAMU Facebook Page, PETA filed a request for information on January 19, 2018 under the Texas Public Information Act about how TAMU manages the Facebook Page, including what settings TAMU implemented on the page. TAMU returned responsive records on June 19, 2018. Attached hereto as Exhibit B is the TAMU Facebook settings, as Exhibit C is PETA's Public Information Act request, and as Exhibit D is TAMU's formal Public Information Act response.

39. The June 19, 2018 Public Information Act records show that TAMU Page settings

are configured so that:

- a. Anyone can publish to the Page.
- b. Anyone can add photos and videos to the Page.
- c. There are no restrictions for country or age to access the Page.
- d. TAMU automatically blocks posts containing the following words about PETA and its message: abuse, abusers, lab, md, and peta.
- e. TAMU also automatically blocks posts containing the following words, most of which comprise profanity or commercial speech: \$, a\$\$, aggy, apartment, ass, bastard, bastards, bit card, giftcard, hook, hook em, hookem, hell, illuminati, ipaad, ipad2, ipadss, jersey, jetblue, job, ms, pad, padds, penis, sale, and shit.

40. The TAMU Facebook Page settings released to PETA on June 20, 2018 are not dated, and may reflect the TAMU Facebook settings at any point from January 19, 2018 to June 19, 2018. These settings may or may not reflect TAMU's current Facebook Page settings. Similarly, PETA's tests reveal that certain terms have been automatically filtered on TAMU's Facebook page, though they do not appear on the list produced in response to PETA's Public Information Act request.

41. Apart from certain profane terms and terms closely related to automated spam, TAMU's blocked words are closely related to PETA's campaign and are designed to prevent speech critical of the dog laboratory from reaching the Facebook Page's audience. For instance, the terms abuse, abusers, lab, md (for muscular dystrophy), and peta are all directed toward PETA's speech and its viewpoint that the dog laboratory abuses dogs.

42. One of these PETA staff members is a TAMU alumna and a member of the

TAMU educational community. In her role as a TAMU alumna, she would like to post a comment on TAMU's Facebook Page that criticizes TAMU's animal testing, but TAMU's automatic filter blocks her from doing so.

43. On information and belief, when TAMU's filter does not automatically prevent the posting of PETA content that criticizes TAMU's dog labs, TAMU manually removes that content. On one day, two people posted images from PETA that criticized the dog lab. The images appeared on TAMU's page, and disappeared within 24 hours.

44. On information and belief, TAMU is using the automatic filter setting to automatically exclude from TAMU's Facebook Page any visitor posts that contain any of the blocked words.

45. On information and belief, TAMU automatically excludes visitor posts that contain the blocked words and manually removes other visitor posts and comments that are not captured by the word filter in order to prevent PETA and other critics of TAMU's dog lab from posting any information or opinions to the TAMU Facebook Page about their campaign to end canine muscular dystrophy experiments.

46. TAMU has blocked the word "PETA." Thus, neither PETA nor affiliated organizations using the acronym can post to the TAMU Facebook Page or tag TAMU in any posts. Nor can any Facebook user mention PETA in a visitor post. For example, on Facebook, PETA posted a video of a woman named Pascalline who has been fighting muscular dystrophy for the past 40 years. The caption reads: "She lives with it & doesn't want any more dogs to die in the name of muscular dystrophy 'research' at Texas A&M University [hyperlink to the TAMU Facebook page]." The video does not appear as a visitor post on TAMU's Page despite the fact that TAMU is tagged.

47. TAMU's choice to block the words "PETA," "cruelty," and "abuse" is a purposeful and targeted act to prevent opponents of animal testing from expressing their critical viewpoints in the forum. Likewise, blocking words like "close" and "stop," juxtaposed with blocking words like "lab" and "tests," demonstrates an intent to silence PETA's and other similar opposing viewpoints.

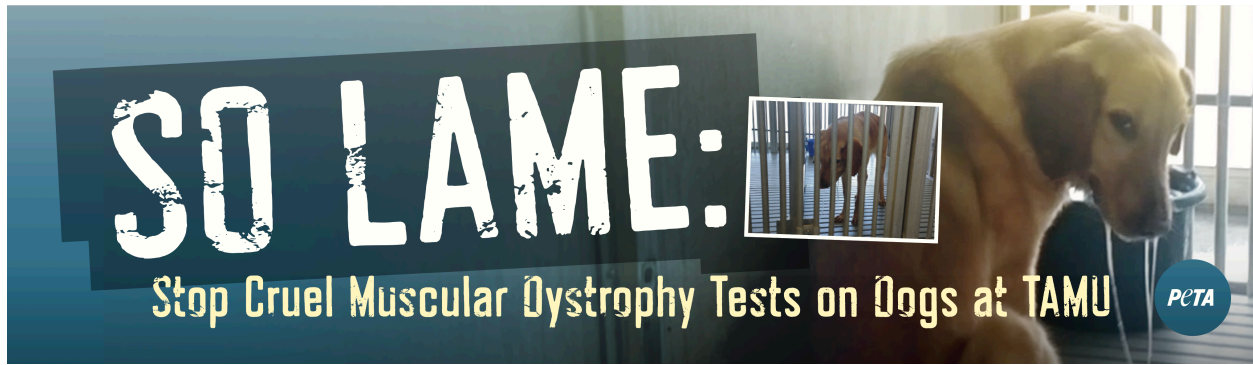
48. Accordingly, TAMU has engaged in viewpoint-based discrimination against speech criticizing TAMU's dog lab, content-based discrimination against speech mentioning TAMU's dog lab, and speaker-based discrimination against PETA and other critics of TAMU's dog lab.

TAMU's Discrimination Against PETA's Speech in Other Forums

49. TAMU's exercise of viewpoint, content, and speaker discrimination against PETA on its Facebook Page continues a pattern and practice of TAMU excluding PETA's speech from TAMU forums. These examples further demonstrate that TAMU's automated exclusion from its Facebook Page of the word "PETA," and other blocked words clearly associated with PETA's campaign against TAMU's dog lab, is viewpoint-based, content-based, and speaker-based discrimination.

50. On or about February 1, 2017, PETA applied to TAMU Transportation Services, a division of TAMU, to run an ad in opposition to the TAMU dog labs on the TAMU shuttle system. TAMU rejected PETA's application.

51. On or about February 1, 2017, PETA applied to *The Battalion*, TAMU's official student newspaper, to run an ad in opposition to the TAMU dog lab in the pages of the newspaper. PETA's application was rejected. PETA's campaign advertisement is below.



52. TAMU operates a Twitter account called @reveille, featuring TAMU's mascot. TAMU has blocked PETA's official "verified" Twitter account, as well as two accounts associated with individual PETA staff members, from both viewing and commenting on TAMU's @reveille account.

Cause of Action

Deprivation of First Amendment Rights

53. Plaintiff repeats the allegations set forth above as if fully set forth herein.

54. Defendants' use of automated filtering technology to censor "blocked words" including "PETA" and other terms clearly associated with PETA's anti-cruelty campaign violates the First Amendment because:

(a) it is viewpoint-based discrimination, and it is unreasonable, which is forbidden in all forums, both public and nonpublic;

(b) it is content-based discrimination, including speaker-based discrimination against PETA, and it is not narrowly tailored to a compelling government purpose, which is forbidden in designated public forums, and TAMU's Facebook Page is a designated public forum; and

(c) it impedes PETA's ability to petition the government for redress of grievances.

Prayer for Relief

WHEREFORE, Plaintiff requests that this Court:

1. Declare that TAMU's restrictions of PETA's speech on TAMU's Facebook Page are unconstitutional;
2. Enter an injunction requiring TAMU to allow PETA to re-post its content in the forum and prohibiting TAMU from future use of automated filtering technology to limit PETA's speech from the forum;
3. Award PETA its costs, including reasonable attorney's fees, pursuant to 42 U.S.C. § 1988(b); and
4. Grant any additional relief as may be just and proper.

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Respectfully submitted:



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